

LAKE COUNTY BOARD of ADJUSTMENT
July 9, 2014
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Paul Grinde, Steve Rosso, Don Patterson, Frank Mutch

STAFF PRESENT: LaDana Hintz, Robert Costa, Matt Ellermann, Lita Fonda

Sue Laverty called the meeting to order at 4:00 pm

Steve noted a correction to pg. 2 of the minutes, where 'made' should be 'make' at the end of the second full paragraph. Frank M gave several changes. At the bottom of page 1, '...property. However...' became '...property, however....' On pg. 2, three sentences from the end of the first full paragraph, 'Each had' became 'Each has', [inaudible] was removed, and 'which affected' was changed to 'which affects'. On pg. 3 in the last sentence of the first full paragraph, 'needed' was changed to 'need'.

Motion made by Sue Laverty, and seconded by Don Patterson, to approve the June 11, 2014 meeting minutes as corrected. Motion carried, 4 in favor (Sue Laverty, Steve Rosso, Don Patterson, Frank Mutch), and one abstention (Paul Grinde).

KORENBERG-BAKER VARIANCE—FINLEY POINT (4:03 pm)

Robert Costa noted that Barbara Baker, applicant, and Johna Morrison, Carstens agent, were here on behalf of the applicant. He presented the staff report. (See attachments to minutes in the July 2014 meeting file for staff report.)

Sue confirmed with Robert that as proposed, they couldn't move the garage in farther from the setback because they would start to encroach on the septic setback or the side setback. Frank referred to the yellow dashes on the site plan. Steve identified those as the 10-foot setback from the septic plumbing. He asked how old the drainfield was. Johna thought it was from 1983.

Frank M said he took a look at the site this afternoon, which he thought made good sense in cases where there could be a couple of ways to look at [a project]. The bylaws didn't provide a provision to either do this or to not do this. Moving the garage around adjacent to the house might work. He pointed to an area that looked like it was already a garage. The problem was the flat area adjacent to the house ended fairly quickly. He pointed to the location of a new entrance. To leave an entryway pathway, it would put the garage over the top of a slope and close to the drainfield setback. It would be feasible if the garage was supported by piers. Dealing with snow was a common issue. It was the same for the existing driveway. He noted both the neighbors agreed with the concept. Their concern was if the garage was moved closer to the house, blasting would probably be required. The neighbors didn't care for the idea of blasting. He touched on view concerns. Depending where the garage might be relocated, maybe one neighbor would

have a slightly impeded view of the lake and mainly the sky and trees. He didn't think it would be a big issue for the other neighbor. He thought this proposal was a close one to call.

Sue said it looked like part of the existing house was within the side setback. Frank M thought that was a garage. Sue asked Robert for clarification on the events described in the last paragraph of pg. 1 of the staff report. Robert explained a site visit was a request from the applicant that allowed for a heads up on issues that might be involved and whether or not a proposal would be appropriate prior to submitting an application. Steve asked if alternative locations had been discussed at the site visit. Robert replied he was told the applicants planned to submit the application the following day. He didn't think it was relevant because they were moving forward with the application.

Steve referred to pg. 11 in #5 where there was mention of approval adding 466 square feet to the buildable area. Steve checked that this would be added to the impervious surface. Robert said it would add to both buildable area and impervious surface coverage. Because they were requesting a variance, approval of the variance would add buildable area. The rest of the garage became buildable area. Sue said the garage encroaching on the side was not considered buildable area because it didn't have a variance. Steve asked if the Board okayed a variance that would add the space that was outside what was currently the buildable area, was the part of the house and garage that's outside the buildable area included. LaDana replied that wasn't buildable unless they got the variance. Robert said this wasn't a variance request regarding that encroachment. Steve asked why the portion of the house extending outside of the setback didn't add to the buildable area forever. Robert said there was no approval regarding that. LaDana said it would only be if they got a variance. Steve confirmed with Robert the house was built before the zoning and that was why. LaDana mentioned they looked at the old permits when these projects came in. Sue pointed to an area that wasn't included in the buildable area or percent.

Frank M asked for clarification on the 28% impervious surface coverage mentioned. Robert said if the Board approved the variance it would be 28%. Frank M asked about the needs if [the garage] were moved. Robert said staff would need to look at how it complied if it were moved. It might be pretty close. The staff report discussed that alternative options hadn't been reviewed. Steve said if they moved it inside the setbacks, it wouldn't add to the buildable area. It would add to the impervious surface coverage and might exceed 49%. LaDana noted they would then need a conditional use, not a variance, which had different criteria.

Frank M said as proposed, the portion of the garage outside the setback would add to the buildable area. Would it not add to the impervious surface? Robert clarified that it added to both [as proposed]. If you moved it, it wouldn't add to the buildable area; it would add impervious surface coverage. Frank M said the builder mentioned they hit some bedrock in this construction in the eastern corner of the house. He pointed to areas on the map that were probably bedrock and might have more impact from construction, especially blasting.

Johna Morrison, agent, spoke about the application. She pointed out a concrete slab where you pulled into the garage that was being referred to as part of the garage. She showed where the garage actually started. The only piece of the structure that was in the setback was a little corner of the garage. They did look at every option prior to submitting the application. They looked at that particular area. They would have to blast there. Mellett Point was a big piece of bedrock. She thought blasting was extremely invasive to the house and to the neighbors. A slope exceeded 25% there plus the impervious surface issue. They chose to go for the variance that seemed the cleaner cut, rather than going for 2 conditional use permits with blasting and with things in the way such as the septic line going to the house and the septic setback. It seemed much cleaner to ask for a variance for the garage in the back of the lot where it was flat, easily buildable and hidden a little from the neighbors.

With the County Road Dept, Johna tried to be clear in her letter that this was not in the right-of-way of Finley Point Lane. She had specified this was in the zoning setback from the right-of-way. She wondered if he hadn't understood given the way his letter was written, such as the comments on pushing snow into the garage. He couldn't do this, since there were lots of trees in between Finley Point Lane and this garage. Johna observed a lot of old growth trees on the lot. In the spot recommended by staff for the garage, there were a couple of particularly large, nice old growth firs and ponderosas. She thought it was more invasive to remove those trees, blast bedrock and mess with 25% slopes. Asking for the variance seemed clearer and cleaner.

Barbara Baker spoke about putting the garage near the house. She pointed out the concrete pad and current 1-car garage. Their pickup truck barely fit in, and did not fit in with the snowplow in the winter. Part of the reason they were asking to build another garage was to fit in two cars. If extended in one direction, the garage would be in the side setback, which didn't make sense to them. The staff report suggested extending the garage to the west. She described the problems to the west using the map. These involved the garage ridge line and reconfiguring a roof, and the septic setback. She showed a space that avoided the septic setback, but you'd have to back all the way to Finley Point Lane to get out, which was something like 125 feet. Another potential location blocked the front entry. If they built over the slope, the garage would look huge from the road and it would loom over the house. She commented that they loved trees and wanted to preserve those that they could. Johna added that 3 large old growth trees would have to come out if the garage were to go where Planning staff proposed.

Steve observed some trees were shown on the drawing and some were not. Johna explained she was trying to make sure the trees that they really needed to save were on the plan. They didn't put in all the other trees. Steve asked where the garage would be with respect to the RV in the photos included in the staff report. Johna responded that one corner would be right in the middle of the RV. Barbara added that the RV belonged to their contractor. She pointed to the location on the map at Steve's request. Steve concluded the garage would be farther away from the road than the RV. He checked

about the mail box that was in one picture. Johna confirmed that was on the edge of the driving surface of the road.

Steve referred to a comment in the staff report that the cul-de-sac wasn't developed. Was there a turnaround in the cul-de-sac? What was meant by 'not developed'? Johna said there was a turnaround, but it wasn't paved or circular. You could drive on it but it wasn't developed. Frank M said it was a tight turn in a pickup. Generally cul-de-sacs were platted with a radius such that emergency vehicles could turn. It hadn't been used that way. He showed where the drivable area was. The 50-foot setback was staked from a line he indicated. Steve knew of locations where the current driving surface was 20 or 30 feet from the edge of the right-of-way and other places where the driving surface was right up against the right-of-way. It depended on where they put the road within the right-of-way. He wanted to get a feel for whether the road was as close as the property line or if there was actually some buffer between the driving surface and the property line. It didn't sound like there was much buffer. Barbara agreed. It was a wider part of the road that people used to turn around. Johna said there was nothing in the way. It wasn't paved and it wasn't improved.

Steve brought up the 31-year old septic field. A lot of septic fields started to lose their capacity to successfully treat waste after 20 to 25 years. He didn't know that there was an inexpensive way to test to see how effective the drainfield currently was. One reason for the placement of the garage was because of the septic field. If the septic field wasn't there, the garage could go north and west and maybe one tree might have to go. It would be a shame to get a variance, build and then have to move the septic field anyway a few years down the road. Johna outlined that a single man owned this as a summer residence until last year. This would make the septic drainfield last longer. They had Environmental Health look at this. An area for replacement existed towards the northeast. They might have to go to Level 2 treatment at that point. They did have an option. An engineer located the drainfield and looked at the area. She thought it was functioning quite well. With Environmental Health and the engineer saying they thought it was okay, the applicants were proceeding.

Steve asked more about the garage usage and storage. Barbara mentioned lawnmowers and gas, wood hauling equipment and chainsaws. Steve and Barbara talked about how the garage would be situated and how the drive would be modified.

Frank M asked more about alternate locations. A detached garage moved to a different spot might be the best alternative if this wasn't approved. By adding to the side of this building, you had the septic setback issue and blocked the entrance. Barbara added that you also had to change the roof because of the ridgeline location. Frank M asked if they'd looked at possible impacts.

Johna thanked Frank M for going out on site. It looked like there was room on the map. When you went out there, you saw what was going on. They spent a lot of time on where this could possibly go. They had to get the drainfield located. The DEQ approval statement and the actual septic permit didn't match up. They had to have an engineer

come in with a radar system to find the septic tank and drainfield. It had been an ordeal. They tried to look at all the possibilities and decided the cleanest, easiest way was to ask for a variance and build a garage in an area that wasn't invasive to the neighbors.

Sue asked about a shed in the photos. Was it in the setback or in the drainfield? Barbara said it came with the property and it would go away. Johna thought the shed was bumped right up to the drainfield and the setback. They didn't locate it since it was going to be removed. Frank observed it looked like it was next to the big tree shown at the corner of the proposed garage.

Barbara said the neighbors would barely see [the structure] due to trees between their house and the proposed location. She pointed to place where there weren't many trees and it would be clearly in the neighbors' line of sight. Johna thought those neighbors wrote a letter saying they were okay with the variance.

Public comment opened: None offered. *Public comment closed.*

Frank M thought it was a tough call. The Planning job was thorough. It didn't meet the zoning criterion in the strict letter of the law but it seemed the options had a larger impact. He put a lot of weight on the neighbors who seemed to find this acceptable. The options would probably cause them more concern and disturbance. He thought this did limit the reasonable use of the property.

Steve felt the alternative location that might work was where the drainfield was located and would require a new drainfield to be put in. He didn't know that they could ask the homeowner to do that. Without requiring a new drainfield, he agreed with Frank M in the respect that the findings could be modified to say there really wasn't an alternative location.

Sue agreed with that. When these came up, you had to have a thorough thought process on approving something outside the setbacks. She appreciated the vegetation, especially if there were old growth trees there. Blasting itself could really disrupt nearby vegetation. She also had to go along with the neighbors. According to the plat maps, these were narrow lots. If this was a less obtrusive spot to have another building for the surrounding property owners, this might be a better alternative.

Paul agreed also. He thought having another garage and storage was entirely reasonable. Environmental Health had apparently done a fairly thorough investigation of the existing drainfield. If you didn't need to spend the money to replace it, you didn't want to do that. Mellett Point was developed long before there was thought to setbacks or slope disturbance. It was a tough place to apply these strict standards. The structure was small and reasonable.

Sue confirmed with Robert that the Board could put conditions on the variance, such as the shed was to be removed and not replaced, if the Board were to amend findings of facts and find in favor of the variance.

Don said most points were covered. Based on neighbors, drainfield and other topics discussed, he would like to approve this.

Steve was ready to make a motion to modify the findings to say there was not an alternative spot, based on the location of the still-viable septic field, the blasting that would be required and the destruction of worthwhile vegetation, since those did limit the location for the new garage to this one spot. LaDana reminded they needed to go through each of the findings and the Board would have to come up with new findings.

The Board discussed the findings on pg. 15 through pg. 17 and came up with the following changes for the italicized sections.

For section A:

- In the first sentence, “Strict compliance with the zoning regulations would **not** allow....”
- In the second sentence, “The lot contains an area...that **does not appear** to have sufficient conditions....”
- In the third sentence: Remove “minimal” in “minimal disturbance of slopes”.
- Remove the section of the paragraph beginning with, “In addition, trees can be removed...” through “...the County road and adjacent properties.”
- In the last sentence, remove “not” and replace “nor” with “and”, so the phrase would read “...the regulation would limit the reasonable use of the property **and** deprive the applicant....”

For section B:

- After the first sentence, add “However, due to the constraints of the septic system, location of slopes, location of existing buildings, location of the viable septic field and location of the mature vegetation, it appears to be a hardship to locate elsewhere on the property.”
- After “2013;” add “even though”.
- After “the Finley Point Zoning District”, a comma shall be added and the rest of the paragraph shall read, “the lot’s size, shape and topography are the causes of the hardship.”

For section C:

- In the last part of the first sentence, “not” shall be removed so the phrase shall read, “...the right-of-way for Finley Point Lane does appear to be peculiar to this particular property.”
- The rest of the paragraph after that shall be removed.

For section D:

- Replace the paragraph with some of the wording from Attachment 3 of the staff report: “This lot was created in 1970 twenty-one years before zoning was contemplated for this area. The house was built in 1982 prior to zoning.”

Section E had no change.

Section F had no change.

For section G:

- A period shall be added after “County road right-of-way.”
- Remove the rest of the paragraph after that sentence.

The Board moved on to consider conditions. Robert relayed that Marc Carstens questioned whether it was 27 feet or 28 feet from the right-of-way. LaDana suggested that this be measured so staff would know what the number was. Steve gave the wording to be added to the 4th bullet of condition #3, so it would read, “Approximately 27 feet (to be confirmed prior to issuance of zoning conformance permit)....”

Sue asked where a condition for the removal of the shed might be added. Robert and LaDana gave suggestions. Before the bolded sentence in #6, the Board worked out an addition of, “As proposed, the existing shed must be removed.”

Motion made by Steve Rosso, and seconded by Paul Grinde, to approve the variance to allow the construction of a garage within the 50-foot setback from the public road, with changes to the variance criteria as discussed and agreed to, and changes to conditions #3 and #6 as discussed. Motion carried, all in favor.

TABISH CONDITIONAL USE—MASUMOLA (5:11 pm)

Robert Costa noted the applicants and their agent, Johna Morrison of Carstens, were here. Robert presented the staff report. (See attachments to minutes in the July 2014 meeting file for staff report.)

Steve asked if there were requirements for private ownership of a large fuel tank. Robert said there weren't requirements in zoning that would require something to mitigate for this. Staff tried unsuccessfully to contact John Fairchild, the rural fire chief so the applicable requirements weren't clear. Steve commented there were tons of requirements if someone were to build a commercial gas station. Frank Tabish said he was in the gas station business. For tanks over 1100 gallons, you had to have a double-wall tank. There were 500-gallon tanks and 300-gallon tanks all over the lake. He had a 500-gallon tank. Frank M mentioned he bought an old gas station, and learned about different regulations for underground versus above-ground tanks. Most domestic tanks were above ground. Oil furnaces were 300-gallon tanks and were all over. That didn't mean there wasn't a potential for pollution, but there didn't seem to be regulations. The state was very aggressive about this stuff. Frank T said underground was really tough.

Sue referred to infiltration pictures. She checked that this type of system was originally supposed to be installed and was now installed. Robert said that was his understanding from the pictures. She confirmed with Robert that this was one of the conditions to bring the garage back into compliance.

Steve asked about Robert's observations of vegetation on the east end of the property, lakeward from the house. Robert said that was mostly manicured grass, with a gravel bed along the property boundaries with trees and bushes. Along the lakeshore it was the same thing. Steve asked if it looked like photo #4. Robert said it looked more vegetated than that. The trees were young but they were there. The gravel bed existed mostly along the property boundaries and the lakeshore. The majority of that area was grass with a few trees.

Steve asked if the Masumola zoning regulations included a discussion of vegetated buffers. Robert said a 50-foot setback from highwater mark was required. This zoning district didn't have the detailed requirements that some of the other districts had. Frank M asked about findings and recommendations. Robert replied that these regulations didn't have conditional use review criteria so there weren't findings to be made. It would be whether the Board found the proposed use reasonable. The recommendation on pg. 14 was pretty generic. He read it aloud.

Johna Morrison said she was initially contacted by Treasure State Concrete. They were paving an area but they were not aware they needed permits. Frank T asked his contractors to get their permits. There was a lot of miscommunication on this project between the contractors, the builder and the owner. The owner thought he had his zoning conformance. There was a line that said 'this does not constitute the issuance of a zoning conformance' that he had missed. Johna realized the downspouts weren't on the building so they did that. She contacted the guy who was supposed to put in the infiltrator system. He said that was in. She asked him where the areas were to put in the downspouts to get into the infiltrator. She made him dig up the area, which accounted for that part of it not being vegetated. It didn't get put in again from the contractor's mis-sight. He went ahead and put it in. The infiltration system with downspouts, gutters and infiltration system was completed June 6. Sue asked if that was where the gravel area was. Johna replied it was above the gravel area. She referred to photo #3 on pg. 3 and the excavated area. It was graded and prepped to be asphalted.

Steve confirmed with Johna that the infiltrator wasn't underneath the asphalt area. Johna pointed to an area with a graded spot that was also for asphalt. She had them put in the gutters and downspouts and come up 4 feet. It was a 4-inch line. She showed the area where the asphalt was proposed, where the infiltrators were and what would be redone in gravel and vegetation. Sue and Johna discussed various features on the pictures and drawings, including the area of the proposed portion of asphalt shown in one of the pictures. Johna described that Robert worked with her to take care of the violations. It wasn't done to try to circumvent regulation; it was a ton of misunderstanding. The owners had been good about letting her manage the project and get things taken care of and sorted out. He was a little taken aback when she told him what had happened and what needed to be done with it. Frank T said he thought it was all done.

Sue referred to the 2012 pictures when the garage construction began and pointed out a vegetated area. Now it was gravel, basically devoid of vegetation except for a couple of junipers. She asked the Tabishes what was behind the thought process for doing that.

Frank T said they took out a ton of trees that were diseased. There was a huge tree behind the home that he was concerned would fall over. They wanted to see the lake and they terraced the area there. They planted trees along the edges of the property. Most of the trees were white birch and they were diseased and half-dead.

Steve referred to the drawing of attachment 3. It included some math for sizing the infiltration system. Was different criteria used than that required by the regulations? Johna said she used standard criteria. Steve said it looked like there were 16 chambers for 4000 square feet, which meant 4 chambers would handle 1000 square feet. The garage had 1300 square feet of garage with 4 chambers. It looked like there should be 5 or 6 chambers. Johna looked at that to see if she'd been mistaken there. It was originally approved for what was installed at this point, which was the garage roof. She believed it was only four 4-foot chambers. She noted that this said a 4000-square foot roof area and this roof was only 1200. This was something that carried over from another project with 16 chambers. This one had 4 chambers. Steve said the garage was bigger than 1/4 of this, so it looked like it should have 5 or 6 chambers for the garage rather than four. Johna said she was going off the old approval for 4 chambers. Even though it didn't fit with her calculations, that was what was approved. It probably was a bit undersized but it was a good, clear area with a lot of drainage.

Frank M asked if it had been in long enough to see how it worked with the spring rains. Johna said no. There'd been a lot of rain. She hadn't gone out to look at it since it had been installed. The day she went out to look at stormwater and how it moved through the property, it was pouring. She had a really good picture of where the stormwater problems were, which was how she came up with the trench drain. She described how the water made its way off of everyone's driveways to Frank T's driveway. It then ran down the driveway and veered left to go across the brick area where the fuel tank was, and shot over to the Morton's. It was raining so hard that water was coming off the area graded and compacted for paving. A lot of the water was flowing over to a trench drain in the interior area. That went under the house and into the first set of retaining walls. There were two or three sets of retaining walls that were grassed and worked well for the retainment of stormwater at each level. Steve said [this was] getting the water to soak down into the ground before it ran through the gravel beds into the lake.

Johna said after watching what happened in that big storm event, it was obvious that to control most of the stormwater problem, it needed to be diverted off of the fuel/ patio area. Lani Tabish mentioned there was grass on the other side of the tank. Johna said that was where she proposed a trench drain on the drawings. It would then go down in an outlet pipe, which would put it out on the lawn area to the south. Steve checked that the pipe would daylight before the second retaining wall. Johna said it would be between the two retaining walls. Frank T asked what if he put a storm drain in front of that brick. Johna said they would have to look at what would be approved for storm drainage. Frank said if he put one in there, it would eliminate messing with the brickwork. If they approved the pavement, he'd have Treasure State do it. Johna said they would still have to divert it away from that brick area and down to [the drain].

Steve said the brick area had to be re-sloped somehow. Johna said there had to be a water board or a trench drain or something to divert it from going onto the brick area. Lani asked what they'd done before. It had been there for 10 years. Johna wasn't sure. She could only observe what she was seeing. She explained that in this instance, when you were creating more impervious surface, you had to take care of your stormwater problem, including previous stormwater problems. She talked to the neighbors. She was surprised they submitted letters for denial because their main concerns included the removal of the vegetation and the way he landscaped it. She said we could all complain about our neighbors. Beauty was in the eye of the beholder. He was within his rights to landscape it and manicure it. The neighbors didn't like the fuel tank. Frank T said he even put up a fence between himself and the neighbors to cover the fuel tank.

Steve expressed one of his concerns. As discussed, the regulations weren't specific about a buffer zone or a vegetated buffer area. In the zoning districts that had those regulations, those were based on a lot of scientific evidence that showed in a vegetative buffer with a variety of different kinds of plants that had different depths of root systems, the variety of plants used up nutrients and other contaminants in that water before that water got to the lake. This was not just grass but grass and bushes and trees. In these regulations, it just said 'all development shall ensure that any stormwater runoff that results from physical improvements to the property be removed without causing damage or harm to the natural environment and water quality on property adjacent to the subject property'. So the concern would be the water quality.

Steve said having stormwater just soak into the ground before it runs into the lake might not be enough. What had to happen was that water quality had to be protected. When [the Board] saw a photo like photo #4 on pg. 4, which showed a large area of gravel with a few small, widely spaced bushes, it concerned him that the landscaping plan didn't protect water quality. Just having the water soak into the ground may not be enough to meet the regulations. Lani said these [bushes] doubled in size and grew together at their house in Missoula where they lived on a hill with a slope. Soon you wouldn't be able to see much of the gravel. She thought the picture was from last year and the bushes had already doubled in size. Sue and Steve noted the date on the picture was 5/13/2014. Lani thought that had to do with the perspective of the picture.

Sue agreed with what Johna said as far as what your neighbor does, what we might all do as neighbors and that what we might see as beauty is in the eye of the beholder. She also really believed that especially as lakefront property owners you had a higher standard to help to protect the environment based on a lot of scientific fact. You needed a lot of different types and sizes of vegetation on your property to help take nutrients out of the water as it percolated through. Also it helped stabilize slopes and maintain things better. So much paving created quicker, faster runoff that didn't necessarily get a chance to percolate quite right even though you were going to hold it in some chambers and just let it go out, without any other kind of vegetation. She wasn't sure it was in the best interest of this piece of property to pave paradise and put up a parking lot.

Steve thought that Board members had a responsibility when they granted variance or conditional use requests to see that even though some pavement was added over here, for instance, they were making some changes in the property in another area to mitigate the impacts from this pavement. They had to evaluate whether an effort had been put in to offset. There was a reason why a conditional use was required when someone paved or created a lot of impervious surface. Open ground helped manage stormwater, both in the respect of preventing it from running and eroding, but also from the respect of maintaining the water quality. Something should be done to mitigate the impacts of the increase in impervious surface.

Steve noted the Tabishes expected the bushes to grow bigger and filter more water. There was only one variety there so the root depth would be the same and all take water from the same layers in the ground. If there were a few trees in the area with deeper roots and even some grasses with shallower roots, then the water that filtered at different depths would go through some plant roots. As impervious surface was created in the west half of this lot away from the lake, the flows were increased dramatically down towards the lake. Now that area created water that ran off onto this more eastern half of the lot. It didn't soak in back there, hundreds of feet back from the lake, and as a result ran more distance down to the lake. It ran down on the surface and then soaked in and suddenly this 60 to 100 feet of ground had to take care of all of the water from the entire lot, rather than some of the water being filtered back farther from the lake. Those were impacts that the Board had to judge here. Maybe the applicants could address some ideas that they had about mitigating those impacts.

Lani said they had the shrubs in front of the house. Frank T referred to the majority of the roof water that they just addressed. If they didn't put in the gutters, he didn't think the water came off the front. There was enough surface in front of it where it soaked in and there was also a big retaining wall. Regarding the asphalt in front, he didn't want to pave it. When it rained, the water washed the gravel down the driveway. He was tired of shoveling. He would put a storm drain in front of the tank to capture what came down. Steve said he'd like to hear that the Tabishes had a landscaping plan for the area where this water soaked in, which was in front of the house. They had paved almost everything on the west side of the property. Lani said they took the old garage down that had pavement in front of it. Frank T said they just replaced the garage and a storage shed.

Robert clarified that demolition of the garage to which Frank T referred happened before staff visited. The 2012 photos did not show that. Steve said he was concerned with photo #2. It showed not very well organized landscaping. In the snow, there were some good-sized bushes and a couple trees. Concerns on disease and trees falling had been mentioned earlier by the applicants. Frank T said you couldn't see the tree he was concerned about [falling] in this photo. Steve explained that he saw a variety of vegetation in that photo. In photo #4, he suddenly saw just gravel. Those kinds of changes said something to him about the possibility that although the water might soak in, there wasn't anything being done to protect the water quality.

Lani asked if he was suggesting more bushes and trees. Steve affirmed. If those were in that area, that would be one thing. If the area down by the lake looked like these pictures, he was concerned. Lani said it did not. Johna said it was manicured grass. Steve said the grass had the same root depth. Water that soaked in deeper than that and ran out to the lake didn't go through any roots at all. Some bushes planted in that area, and a tree or two that would be far enough apart to see between them would be some efforts the applicants could make to mitigate. Frank T said he didn't plan on doing anything between [the house] and the lake. He wanted to keep the grass and look at the lake. Steve understood that. He suggested there was a possibility that if they wanted to keep the grass lawn then they had to give up some impervious surface. Frank T didn't want to do that either. Steve understood. He said that was his dilemma. How did [the Board] justify going beyond the limits that were suggested in the regulations for impervious surface if they weren't going to mitigate those impacts by changing the landscaping a little bit to protect the water quality?

Frank M said it sounded like runoff from other properties came through this property. The applicants were attempting to mitigate that as well as what was generated on their property. He asked if it came from the road. Lani said it came from the top of the hill. Johna explained there was a series of driveways that came off the county road. These were paved and crisscrossed one another. It seemed like the movement of the stormwater was right down Frank T's driveway. Frank M asked if water came from the properties of the people who were complaining. The applicants and agent clarified the water came just from the west, from the conglomerate of properties. Frank checked that the gutter and mitigation systems that were now installed were for the house, guest house and garage. The Tabishes replied that they didn't have a guest house. Johna explained that the house's stormwater was already handled through its own series. The garage was handled by the infiltrators that were just put in.

Frank M thought they could say the applicants mitigated water from a building that wasn't mitigated before. Sue said that was supposed to have already been done. Frank M said he was talking about the actual condition of water running through the property. It was less now than before. Johna said that was where the trench drain system came in. Frank said the neighbors' complaints weren't totally focused on runoff, and included lighting and the fuel tank. Lani said they didn't have lighting. Sue thought a standard condition for downshielded lighting might have triggered that.

Frank M referred to pg. 10 where if the Board found the techniques described appropriate, they could approve. He didn't think they had the time and the knowledge to determine if the techniques were appropriate. He'd defer to their engineer. It looked like the paragraphs on pg. 10 required the applicants to deal with all runoff regardless of where it came from if this was approved. The applicants talked about a storm drain for that brick area. The water still had to go somewhere. Frank T said if he put a storm drain there, he didn't know how deep it was but it would catch everything. Frank M asked if this was like a French drain and Frank T said no. Frank M asked where the water would go. Johna said this was a drywell with a grate on top. Frank M asked if they would be willing to come up with some different landscaping in the area that was mostly gravel to

try to mitigate existing runoff. Frank said he didn't want to reforest the place again. Frank M said there might be other shrubs or whatever with different root systems. Johna added ones that didn't impede the view. Frank T said he had water to the plants there to keep them healthy until they could naturally take over.

Steve referred back to Frank M's discussion about pg. 10 and handling the stormwater from the existing paved driveway and fuel area and the water from the garage roof. The new paved area hadn't been included in these other stormwater management plans. Johna said that was an oversight by her. She didn't calculate out that extra 1700 square feet. She would have to submit something that was acceptable to handle that. She thought she'd look at some infiltrators in addition to a trench drain so instead of just shooting it out on the lawn, it would be in infiltrators underground with enough infiltrators to handle the additional flow. Steve thought the owner was suggesting digging a 10-foot deep hole with a 6-foot diameter concrete vertical tile with a grate in the top. Steve found Johna's description interesting of being on-site on a rainy day without the pavement and with the water running off of the ground prepped for pavement. If this wasn't approved, not paving that area wouldn't help the runoff problem. Johna said that didn't give the Planning staff teeth to implement that they follow a stormwater plan. Steve thought it was a shame that the compacted graded surface was considered pervious because it wasn't.

Johna noted she needed to do something different with the stormwater to recalculate for the new volume of impervious surface. She'd seen boards require the planting of vegetation in a gravel area (for example one native plant every 20 feet and a variety of species) and give the Planning staff the authority to approve the design. She wondered if that was something the Board would want to look at. Steve said he'd like to have the applicants come in with a plan rather than the Board say they'd approve this now if the applicants came up with a plan later. Johna asked if they'd consider tabling, with the applicants bringing a plan next month. Steve said he would but he was one of five of the Board.

Paul thought different vegetation made sense. This was a lot of runoff. He knew the area. The runoff wasn't just from this property. He thought this needed to be passed simply so there was some mitigation in place. Maybe tabling would be proper.

Frank T referred to the tank. It was tapered already. If he put a big drain in there, he'd catch it all before it went across. If something slopped off, it would go on his lawn. Frank M asked for the tank location on the site plan and the gravel area. Johna pointed these out. Frank M brought up the by-laws and tabling. Sue L said an approval needed three votes in favor. If you didn't think you were going to get three, it might be better to table and bring more information. Johna noted that the applicant had to ask for the tabling, not her.

Sue said this was a tough one for her because of the runoff, because of so much impervious coverage and because of the lack of different types of vegetation, besides gravel, manmade infiltration ditches and manicured lawn with [shallow] root systems.

On the other hand, if it didn't get passed, you had compacted runoff that may or may not eventually loosen up, 'perc up', and grow its own vegetation in there. That might over time take care of it. She would rather see some sort of more mitigating information before she would consider that. She wasn't so sure the owners were interested in mitigating with vegetation.

Steve said the regulations were vague in this zoning district about a vegetative buffer. Some zoning districts were very specific. This one just mentioned water quality. The Planning Dept had brochures in their waiting area that talked about these vegetative buffer areas and Lake County was active in promoting these kinds of things in the lakeshore development. He thought the new lakeshore regulations would have specifics about this. They didn't have to meet all of those researched recommendations, but he'd like to see them move in that direction. He gave examples of what applicants might suggest, such if extensive paving was wanted in one area, a few bushes and trees would go in another, or if someone wanted a lot of lawn, maybe they'd use pervious pavers instead of asphalt. Right now all of this water was running to within 60 feet of the lake, and then it all needed to be taken care of to improve the water quality. That area down by the lake had to have a variety of vegetation or it was not going to take care of that water. Lani said on the north side of the garage, there was lawn and trees. Johna clarified this was along the driveway.

Sue thought it might be appropriate for the Board to table this to next month. She didn't know that they had enough information to make a determination. Steve said pictures of more of the property would be helpful. Frank M suggested going to the site. LaDana replied if they all went to the site, they had to have a scheduled public meeting. Sue suggested some alternatives to concrete or asphalt such as pavers, natural lawn and something to help filtrate the water. Just a big hole in the dirt that's 60 feet from the lake didn't really give it enough time to do what it was supposed to. Steve said that was the water quality part of that regulation. Frank M thought they should table. He asked about the perc. Johna witnessed hard surface and compacted. When she walked through the grassed areas, they weren't marshy or too wet. They seemed very stable and seemed to be accepting the huge amount of water. Frank M said they were trying to make a technical decision. If the road was part of the problem, he wondered if the County Road Dept should look at putting some ditches along the road. Johna said the county road came down and the driveways spurred off. It flowed naturally down the Tabish's driveway. Sue said it probably always did that. That was the natural flow.

Frank M asked if the owners would consider some of the options and revisit it. Lani said they'd been working on the project for 2 years. Frank T said they did a beautiful job and he spent money to do it, and he did it the right way. He hated to redo it. Lani said if they could get rid of the water problem, perhaps they could plant vegetation little by little so it would look nice. To tear things up and get graders and trees etcetera was overwhelming. Frank T said he was willing to put the big drain in, in front of the tank to catch the water. That was a sizable investment. Steve said that would help the water disappear into the ground, but it wouldn't clean the water before it got to the lake, and that was the problem. Frank T said if they did nothing, it would still go down to the lake. Steve agreed that was

true if everyone in the room did nothing. He guessed the Tabishes wanted to pave that spot and thought they could sit down with Johna and come up with a plan.

Sue thought they should table this to the August meeting to give the applicants an opportunity to give the Board more information. Robert noted that would give them a week to get in more information for the next deadline. Robert asked Johna about the time, and Johna asked them what time they needed. Frank T didn't want to do the project if it was going to be postponed that long. Lani said they'd ruined their summers getting this project together. Frank T said he wouldn't do the project. He would curb the area where the water washed the property away down the driveway. He was willing to do the French drain and take care of everybody else's water with his own; the Board was saying this wouldn't cleanse it. Lani T wanted them to visit the site. Frank M said he was willing to go but there were legal requirements. LaDana said if the whole Board went at the same time, they had to legally notice it and allow the public to come.

Sue said it sounded like the applicants did not want this tabled. Did the Board act on it or let it die? If the Board tabled it, that basically let it die. Frank T clarified that they wanted a walkway just underneath the eaves. Johna said she sent him a drawing that had a partial bit of pavement. Frank T said they initially wanted to pave that to the rocks. Johna said that got moved back over so it was 3 or 4 feet from the garage.

Frank M asked if it was still required to redo this chamber. Johna said the chambers were in conformance with the garage. As far as the runoff coming down the road, she thought there was some mechanism at some point that would make them control their stormwater, probably DEQ. Sue said the Board could choose to add conditions. Paul thought the Board ought to approve this with some conditions.

Motion made by Paul Grinde to approve the Tabish conditional use request with conditions.

Frank M asked if they wanted to discuss the details of the conditions as part of the motion. LaDana reminded a set of conditions were given to the Board in the staff report and they might want to use some of those. Frank M said the one that had been put on the table that was acceptable to both parties was the storm drain. Sue said they hadn't gone through [the conditions]. Was he saying he didn't want to add those? Frank M said he did want to add those, and have the storm drain in addition. LaDana thought that was mentioned in condition #4. Steve thought there was also already a condition about adding a stormwater plan. LaDana highlighted condition #5 for that. Sue asked about condition #1 and if the amount of impervious surface had changed since that was calculated. Johna said Steve pointed out that she missed the additional area of impervious surface that would be put down as 1700 square feet. She did have to recalculate. Sue checked about the asphalt Frank T mentioned that had been taken away, leaving a walkway. Johna replied that the Board had the plan that was updated. LaDana confirmed with Johna that 39.7 % was correct. Frank M was comfortable with the conditions if they covered the storm drain which was more or less inferred.

Motion seconded by Frank M with the suggested conditions. Motion carried, 3 in favor (Paul Grinde, Don Patterson, Frank Mutch) and 2 opposed (Sue Lavery, Steve Rosso).

OTHER BUSINESS (6:25 pm)

At least one item had been submitted for next month with a week to go until the deadline.

Sue Lavery, chair, adjourned the meeting at 6:27 pm.